

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

_____x
In re

MAYWOOD CAPITAL CORP., et al,
Debtors

-against-

-----x
JOHN S PEREIRA, as chapter 11 Trustee of
121 West 122nd Street Corp.

Plaintiff

Vs.

HARRIETT E. BEST

Defendant
_____x

NOTICE OF APPEAL

Chapter 11
Case No. 05-10987 (RDD)

(Jointly Administered)
Case Nos. 04-17047, 05-10944 to
05-10987, 05-11521 and 05-11523

Adversary Proceeding No.:
05-02577 (RDD)

Defendant, HARRIETT E. BEST, by, Clover M. Barrett, P.C., her attorney, appeals to the United States District Court for the Southern District of New York from the Order and Judgment of the Bankruptcy Court (Honorable Robert D. Drain, United States Bankruptcy Judge) issued on January 28, 2008, granting the trustee's application for the avoidance, preservation and setting aside of the transfer of the property located at 121 West 122nd Street, New York, New York (Block 1907 and Lot 21) from the Debtor to the Defendant on the grounds that the trustee was a hypothetical bonafide purchaser without notice of the transfer to the defendant within the meaning of 11 U.S.C. §544(a)(3).

The party to the Order appealed from is as follows:

John S. Pereira, Esq.
Chapter 11 Trustee

Dated: February 7, 2008

Clover M. Barrett, P.C.
189 Montague Street, Suite 501
Brooklyn, New York 11201
(718) 625-8568

By: _____
Clover M. Barrett, Esq.

FILED
U.S. BANKRUPTCY COURT
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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re	: Chapter 11
	: :
	: Case No. 05-10987 (RDD)
MAYWOOD CAPITAL CORP., <u>et al.</u> ,	: :
	: (Jointly Administered)
	: Case Nos. 04-17047, 05-10944 to 05-
Debtors.	: 10987, 05-11521 and 05-11523 (RDD)
	: :
-----X	
JOHN S. PEREIRA, as Chapter 11 Trustee of	: :
121 WEST 122nd STREET CORP.,	: :
	: :
Plaintiff,	: :
	: Adversary Proceeding No.
	: 05-02577 (RDD)
vs.	: :
	: :
HARRIET E. BEST,	: :
	: BC 08.0007
Defendant.	: :
	: :
-----X	

ORDER AND JUDGMENT
IN FAVOR OF PLAINTIFF AND AGAINST DEFENDANT

This adversary proceeding (the "Adversary Proceeding") having been commenced by the filing of a complaint (the "Complaint") by Plaintiff, John S. Pereira, as Chapter 11 Trustee of 121 West 122nd Street Corp. (the "Plaintiff") on September 19, 2005, in which the Plaintiff sought the avoidance, preservation and recovery of a purported transfer (the "Transfer") of property located at 121 West 122nd Street, New York, New York by debtor 121 West 122nd Street Corp. (the "Debtor") to defendant, Harriet E. Best (the "Defendant"); and the trial (the "Trial") of the limited issue in the Adversary Proceeding of whether the Transfer could be avoided by the Plaintiff under 11 U.S.C. § 544(a)(3) having been held on December 3, 2007, the

entire record of which is incorporated herein by reference; and the Court having rendered a decision following the Trial, which is incorporated herein by reference; it is hereby

ORDERED, ADJUDGED AND DECREED THAT:

Judgment is entered in favor of Plaintiff and against Defendant as prayed for in the Second Amended Complaint, dated October 1, 2007 (Doc. # 45) for:

1. The immediate avoidance, preservation and setting aside of the Transfer of the property located at 121 West 122nd Street, New York, New York (block 1907, lot 21) (the "Property") from the Debtor to Defendant;
2. The immediate turnover of possession, operation, management and control of the Property to Plaintiff, including the turnover of all documents pertaining thereto, including, but not limited to, rent rolls, leases, arrears report, all DHCR filings and payroll & payroll tax reports (collectively, the "Property Documents");
3. The immediate payment to Plaintiff of all rent, income, profits and other monies arising from, related to or concerning the Property and/or the management and/or operations thereof since the date the Defendant took possession of the Property (the "Proceeds"); and
4. A full accounting to Plaintiff of all Proceeds, within 30 days of the entry of this Order; and it is further

ORDERED, ADJUDGED AND DECREED THAT:

Without further Order of the Court, Defendant shall:

- a. Immediately turn over possession, operation, management and control of the Property to Plaintiff, including the turnover of all Property Documents;
- b. Immediately pay the Proceeds to Plaintiff; and

c. Provide Plaintiff with a full accounting of the Proceeds within 30 days of the entry of this Order; and it is further

ORDERED, ADJUDGED AND DECREED THAT:

The deed in favor of Defendant, recorded on June 9, 2005 in the New York City Department of Finance, Office of the City Register (City Register File No. 2005000336520), is hereby declared null and void; and it is further

ORDERED, ADJUDGED AND DECREED THAT:

The New York City Department of Finance, Office of the City Register, is hereby directed to record this Order and Judgment; and it is further

ORDERED, ADJUDGED AND DECREED THAT:

The Clerk of the Court shall enter this Order and Judgment and Plaintiff shall have all rights of execution thereon; and it is further

ORDERED, ADJUDGED AND DECREED THAT:

This Court shall retain jurisdiction resolve any disputes concerning the terms of this Order and Judgment and the enforcement thereof.

Dated: New York, New York
January 28, 2008

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/s/Robert D. Drain
Hon. Robert D Drain
UNITED STATES BANKRUPTCY JUDGE